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OFFICE OF PETITIONS

In re Application of  
Charles E. Hart et al  
Application No. 10/606,055  
Filed: June 25, 2003  
Attorney Docket No. 00-79D1

: DECISION ON PETITION  
: UNDER 37 CFR 1.78(a)(6)  
: :  
: :

This is a decision on the petition filed June 7, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/235,295, filed September 26, 2000.

The petition is Granted.

A petition for acceptance of a claim for late priority under 37 CFR § 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR § 1.78(a)(5)(ii). In addition, the petition under 37 CFR § 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR § 1.78(a)(5)(i) of the prior-filed application, unless submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR § 1.78(a)(5)(ii). *See* 35 U.S.C. § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR § 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 119(e), the petition to accept an unintentionally delayed claim of benefit to the above-noted, prior-filed provisional application is granted.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1646 for examination in due course.

*Frances Hicks*

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